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Attorney for Defendants  
Municipality of Anchorage  
Anchorage Police Department  
Walt Monegan  
Officers Voss and Henikman

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF ALASKA**

CAROLYN MITCHELL,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
ANCHORAGE POLICE DEPARTMENT and	)	
the MUNICIPALITY OF ANCHORAGE, a	)	
municipal corporation, WALTER MONEGAN,	)	
Officer HENIKMAN, and Officer J. VOSS,	)	
	)	
Defendants.	)	Case No. 3:05-cv-00273-JWS
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**UNOPPOSED MOTION ON SHORTENED TIME TO CONDUCT A PRE-TRIAL  
CONFERENCE IN ADVANCE OF THE FIRST DAY OF TRIAL**

Defendants request that this Court conduct a Pre-Trial Conference prior to June 30, the date on which the trial is scheduled to commence. Assistant Municipal Attorney

Elizabeth D. Friedman spoke with Plaintiff's counsel, Moshe Zorea, who agreed that it would be helpful to resolve pending issues earlier than the first day of trial.

The Court's Order for Pre-Trial Proceedings and Final Pre-Trial Conference entered on March 25, 2008, (Dkt. 90) provides that a final pre-trial conference in this case is to be held at 8:30 a.m. on Monday June 30, 2008, one-half hour before the trial commences. Defendants respectfully request that the Court consider conducting a pre-trial conference earlier, in advance of the first day of trial. This request is based upon the following circumstances, which counsel believes constitute "good cause" as required by Ordering Paragraph 2 of the Order:

The Court has ruled that the defendant police officers Voss and Henikman committed the tort of false arrest. (Dkt. 72, 76, 86). The trial briefs submitted by the parties on Friday June 13 (Dkt. 113, 114) reflect fundamental disagreement as to the meaning and practical effect of this decision. Plaintiffs evidently believe that the ruling has established liability for false arrest and for Section 1983 liability, eliminating the obligation to prove the elements of the Section 1983 claim or to prove causation and barring presentation by the defendants of evidence concerning affirmative defenses. Defendants disagree, noting that (1) the ruling that the officers' conduct constituted a false arrest does not establish that they have liability for the conduct; (2) the Court's Order From Chambers dated May 28, 2008 (Dkt.110) confirms that with respect to the immunity issue the defendants' waiver was only as to "pre-trial determination" of the issue; (3) the ruling on the false arrest tort does not resolve the plaintiff's Section 1983

claim, since the elements of that claim are different; and (4) the Court specifically ruled (Dkt. 72, page 7) that genuine issues of material fact require trial of the Section 1983 claim (there are "material questions of fact as to whether [plaintiff's] detention amounted to an arrest" for Fourth Amendment purposes). Defendants anticipate that evidence will be presented at trial to address the fact questions discussed in the Court's October 30 Order (Dkt. 72 at pages 5 – 7); but plaintiff's counsel profess to disagree. In addition to the disagreements on these issues, the parties also disagree concerning the division of functions between judge and jury with respect to the immunity defenses.

Guidance from the Court concerning these important issues will promote efficiency at trial. It will substantially aid the parties in identify witnesses who must be called to testify. It will also minimize interruptions during the presentation of evidence for extensive arguments about the admissibility of evidence. For all of these reasons, Defendants respectfully request that the Court conduct a pre-trial conference prior to June 30<sup>th</sup> at its earliest convenient opportunity.

Respectfully submitted this 19<sup>th</sup> day of June, 2008.

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The undersigned hereby certifies that on 06/19/08 a true and correct copy of the *Unopposed Motion on Shortened Time to Conduct a Pre-Trial Conference in Advance of the First Day of Trial & Proposed Order* was served on:

Isaac D. Zorea  
and  
Moshe C. Zorea

by first class regular mail, if noted above, or by electronic means through the ECF system as indicated on the Notice of Electronic Filing.

s/ Cathi Russell  
Cathi Russell, Legal Secretary  
Municipal Attorney's Office